

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRYAN DOUGLAS NICHOLSON,

Defendant.

Case No. CR 21-156-RAW

ORDER

Before this court is the Government's Motion to Dismiss (Doc. 53) filed on January 21, 2022. The Government has advised the Court that at the time Defendant was charged in federal court, he was incarcerated as a result of his state court conviction in *State of Oklahoma v. Bryan Nicholson*, District Court of McCurtain County, CF-2017-318, which contains identical charges to the charges before this Court. In that case, the Defendant was found guilty of the multiple counts of Child Sexual Abuse and Lewd Molestation and was sentenced to life in the custody of the Oklahoma Department of Corrections.

The state case was dismissed following the decision rendered by the United States Supreme Court in *McGirt v. Oklahoma*, 140 St.Ct. 2052 (2020) and the Government indicted the Defendant herein. On August 12, 2021 the Oklahoma Court of Criminal Appeals released the opinion in the *State of Oklahoma ex rel. Mark Matloff, District Attorney v. the Honorable Jana Wallace, Associate District Judge*, 2022 OK CR 21. Subsequently the state filed a Motion to Vacate the Dismissal in the state case. On August 26, 2021, the state court filed an order vacating the Motion to Dismiss, thereby reinstating the Defendant's state conviction.

The Court hereby grants the Government's Motion to Dismiss without prejudice.

Dated this 24th day of January, 2022.

A handwritten signature in cursive script, reading "Ronald A. White".

HONORABLE RONALD A. WHITE
UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF OKLAHOMA